



JC10 Rec'd PCT/PTO 10 JUN 2005 PCT

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Donaldson, et al.
FOR : NOISE CANCELLATION SYSTEM AND
HEADPHONE THEREFOR
SERIAL NO. : 10/520,036
FILED : December 28, 2004
LAST OFFICE ACTION : unknown
EXAMINER : unknown
GROUP ART UNIT : unknown
ATTORNEY DOCKET NO. : 21964.27900
June 8, 2005

Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56 and §1.97 is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the following date:

June 8, 2005

D M Kempthorn
D. M. Kempthorn

Mail Stop: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §1.56 and §1.97

Dear Sir:

In accordance with 37 C.F.R. § 1.56, the applicant files this Information Disclosure Statement (IDS) under at least one of the following five circumstances:

1. **There is No Information to disclose:** No patent novelty search was performed in this case and neither the Applicant nor the undersigned are aware of any prior art devices or documents which they believe to be material to the invention as claimed. This document is being supplied for informational purposes to the Examiner and is evidence of our desire to comply with the duty of disclosure.

2. **Under § 1.97,** this IDS is filed with the knowledge that it will NOT be considered, but WILL be placed in the file, if

- (1) this IDS is filed BEFORE the grant of a patent; AND
- (2) this IDS does NOT comply with the requirements noted below

3. **Under § 1.97(b),** this IDS should be considered because it is being filed

- (1) within 3 months of the filing date of a national application, other than a continued prosecution application under § 1.53(d); OR
- (2) within three (3) months of the date of entry of the national stage of an international application as set forth in § 1.491; OR
- (3) before the mailing date of a first Office Action on the merits; OR
- (4) before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114, whichever occurs last.

4. **Under § 1.97(c):** this IDS should be considered because it is being filed after the period specified Under § 1.97(b) above, BUT

- (1) before either the mailing date of a final action under § 1.113 OR
- (2) before the mailing date of a notice of allowance under § 1.311; OR
- (3) before an action that otherwise closes prosecution in the application, whichever occurs last AND

it is accompanied by one of the following statements under § 1.97(e):

I, Daniel A. Thomson, Esq., the undersigned hereby state:

- (a) Each item of information contained in this information

disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement,

OR

(b) To the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in this statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than 3 months prior to the filing of this statement; OR

A check in the amount of \$ 180.00 is enclosed to cover the Information Disclosure Statement (IDS) Fee under 37 C.F.R. § 1.17(p) as required when neither item (a) nor (b) above are selected.

5. Under § 1.97(d): this IDS should be considered because

(1) it is being filed after the period specified Under § 1.97(c) above but ON OR BEFORE payment of the issue fee, AND
(2) it is accompanied by one of the following statements under § 1.97(e):

I, Daniel A. Thomson, Esq., the undersigned hereby state:

(a) Each item of information contained in this information disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement, OR

(b) To the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in this statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than 3 months prior to the filing of this statement; AND

A check in the amount of \$ 180.00 is enclosed for the petition fee as set forth under 37 C.F.R. § 1.17(i).

In accordance with § 1.56 and § 1.97 the references listed on the attached form PTO/SB/08A are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. Copies of these cited documents are enclosed.

Please charge deposit account No. 501210 if any additional fees are required.

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached form PTO/SB/08A, with initials or other appropriate marks.

Under new USPTO requirements, because the corresponding utility patent application was filed after June 30, 2003, copies of any U.S. patents or published patent applications herein disclosed have not been attached. However, the appropriate patent numbers or publication numbers have been provided. The Applicant believes this to be true based on the attached waiver information as provided by Steven G. Kunin, Deputy Commissioner for Patent Examination Policy.

Respectfully submitted,

BROUSE McDOWELL

June 8, 2005
Date

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Daniel A. Thomson, Esq.
Reg. No. 43,189

Customer #26781

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Substitute for form 1449/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Application Number	10/520,036
				Filing Date	December 28, 2004
				First Named Inventor	Mark Donaldson
				Art Unit	unknown
				Examiner Name	unknown
Sheet	1	of	2	Attorney Docket Number	21964.27900

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (If known)			
		US-			

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, lines, Where Relevant Passages or Relevant Figures Appear
		Country Code ³ -Number ⁴ -Kind Code ⁵ (If known)			
		WO 03/030145	04/10/2003	Koninklijke Philips Electronics N.V.	
		WO 03/030146	04/10/2003	Koninklijke Philips Electronics N.V.	
		WO 01/67433	09/13/2001	Central Research Laboratories LTD	
		WO 02/082422	10/17/2002	Koninklijke Philips Electronics N.V.	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the right of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9799) and select option 2.

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<p>Substitute for form 1449A/PTO</p> <p>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</p> <p><i>(Use as many sheets as necessary)</i></p>				<p>Complete if Known</p> <table border="1"> <tr> <td><u>Application Number</u></td> <td>10/520,036</td> </tr> <tr> <td><u>Filing Date</u></td> <td>December 28, 2004</td> </tr> <tr> <td><u>First Named Inventor</u></td> <td>Mark Donaldson</td> </tr> <tr> <td><u>Art Unit</u></td> <td>unknown</td> </tr> <tr> <td><u>Examiner Name</u></td> <td>unknown</td> </tr> <tr> <td><u>Attorney Docket Number</u></td> <td>21964.27900</td> </tr> </table>		<u>Application Number</u>	10/520,036	<u>Filing Date</u>	December 28, 2004	<u>First Named Inventor</u>	Mark Donaldson	<u>Art Unit</u>	unknown	<u>Examiner Name</u>	unknown	<u>Attorney Docket Number</u>	21964.27900
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